

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSE N. FUERTES,

Petitioner,

-against-

RAYMOND COVENY,

Respondent.
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AZRACK, United States District Judge:

On June 5, 2019, pro se petitioner Jose N. Fuertes (“Petitioner”) filed a petition for issuance of a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (the “Petition,” ECF No. 1) together with an application to proceed in forma pauperis. (ECF No. 2.) Upon review of the Petition, and Petitioner’s declaration in support of the application to proceed in forma pauperis, the Court finds that Petitioner is qualified to commence this action without prepayment of the filing fee. 28 U.S.C. § 1915(a)(1).

Accordingly, it is ORDERED, that

- 1) Petitioner’s application to proceed in forma pauperis (ECF No. 2) is GRANTED;
- 2) Within sixty (60) days of receipt of this order, the Attorney General of the State of New York, or the District Attorney of Nassau County, as attorney for Respondent, shall: (a) show cause before this Court by the filing of a return to the Petitioner, why a writ of habeas corpus should not be issued; and (b) shall serve a copy of their return on the Petitioner herein and file the original thereof with proof of such service, with the Clerk of this Court;
- 3) Simultaneously, Respondent is required to electronically file the State Court Record—

**FILED
CLERK**

7/9/2019 9:56 am

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

ORDER TO SHOW CAUSE
19-CV-3401 (JMA)

including the trial transcript and record; copies of petitioner's and the District Attorney's briefs on appeal; briefs in connection with any proceedings pursuant to Section 440 of the New York Criminal Procedure Law; briefs in connection with any proceedings pursuant to an application for a writ of error coram nobis; and all relevant state court decisions and opinions—with no individual attachment exceeding twenty (20) megabytes;

4) Respondent is also directed to supply a hard copy of the State Court Record to Chambers clearly marked "Courtesy Copy, original filed on ECF";

5) Petitioner, within twenty-one (21) days of service of a copy of the return, shall file a reply, if any, with the Clerk of this Court and serve a copy thereof upon Respondent;

6) If the District Attorney serves and files a motion to dismiss the Petition on the grounds that it was not timely filed, the District Attorney may defer filing a return (and the accompany State Court Record) pending the determination of the motion to dismiss; and

7) Service of a copy of this Order to Show Cause shall be made by the Clerk of this Court electronically, together with a copy of the Petition, to the Attorney General of the State of New York and to the District Attorney of Nassau County, and by mailing a copy of this order to the Petitioner.

SO ORDERED.

Date: July 9, 2019
Central Islip, New York

/s/ (JMA)
Joan M. Azrack
United States District Judge